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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/384,692	08/27/1999	BRIAN MITCHELL BASS	RAL999-0080	8165

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EXAMINER

DINH, KHANH Q

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 04/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/384,692

Applicant(s)

Bass et al

Examiner

Khanh Dinh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ONE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jan 29, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-13 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

1. This is in response to the amendment filed on 1/29/2003. Claims 14-42 are canceled. Claims 1-13 are presented for examination.

Terminal Disclaimer

2. The terminal disclaimer filed on 1/29/2003 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of the U.S. pat. No.6,404,752 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Election/Restriction

3. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Claims 1-9 drawn to a system and method of a control processor cooperating with an interface device to exchange data, classified in class 370, subclass 335.

Claims 10-13, drawn to a computer network monitoring system, classified in class 709, subclass 224.
4. Inventions I and II are related as subcombinations disclosed as usable together in a combination. The subcombinations are distinct from each other if they are shown to be separately

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usable. In the instant case, invention I has separate utility such as system and method of a control processor cooperating with interface device to exchange data, classified in a *different Class/Subclass*. Invention II has separate utility such as a computer network monitoring system between different processors, classified in a *different Class/Subclass*.

3. The inventions are distinct, each from the other, because of the following reasons:

(a) These inventions have acquired a separate status in the art as shown by their different classifications.

(b) The search required for each Group is different and not co-extensive for examination purposes.

For example, the searches for the three inventions would not be co-extensive because these Groups would require different searches on PTO's classification class and subclass as following:

the Group I search (claims 1-9) would require use of search **class 370, subclass 335** (not require for the inventions II).

the Group II search (claims 10-13) would require use of search **class 709, subclass 224** (not require for the inventions I).

For the reasons given above restriction for examination purposes as indicated is proper.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh Dinh whose telephone number is (703) 308-8528. The examiner can normally be reached on Monday through Friday from 8:00 A.m. to 5:00 P.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz R. Sheikh, can be reached on (703) 305-9648. The fax phone numbers for this group are:

After Final: (703) 746-7239

Official: (703) 746-7239

Non-Official/ Draft: (703) 746-7240

A shortened statutory period for reply is set to expire THIRTY DAYS from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned (35 U.S. C . Sect. 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(A).


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305 -9600.

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Khanh Dinh
Patent Examiner
Art Unit 2155
March 25, 2003


AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
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